

CHAPTER NO. 232

SENATE BILL NO. 1288

By Crowe, McNally, Graves, Burks, Miller, Ketron, Bryson, Cooper, Curtis S. Person, Jr., McLeary, Trail, Burchett, Herron

Substituted for: House Bill No. 1282

**By Hood, Black, Lynn, Eldridge, Coleman, Cobb, Maddox, Phillip Johnson, Crider, Baird,
Michael Turner, Curtiss, Gresham, Stanley, McMillan, Head, Litz, Harry Brooks, DuBois, Fitzhugh**

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 7, relative to group purchasing by the systems and institutions of higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, is amended by adding the following as a new section:

Section 49-7-124. (a) For purposes of this section:

(1) "Governing board" means, as appropriate, either the board of trustees of the University of Tennessee or the board of regents of the state university and community college system;

(2) "Group purchasing program" means any plan, program or method which is intended to provide the opportunity for institutions of higher education to obtain goods or services at a discount or savings not otherwise available through the purchasing practices of such institutions;

(3) "Institutions of higher education" and "institutions" mean the University of Tennessee, the state university and community college system, and the constituent schools, colleges, universities, and centers of each; and

(4) "Services" means those routine, non-professional services otherwise purchased by the state of Tennessee pursuant to Tennessee Code Annotated, Title 12, Chapter 3. "Services" does not mean those services procured pursuant to Tennessee Code Annotated, Section 12-4-109.

(b) Notwithstanding any other provision of the law, institutions of higher education may make purchases of goods and services through a group purchasing program provided that:

(1) Any contract with a group purchasing program is not an exclusive contract, permits purchasing from other lawful sources and by other lawful means, and does not require payment or compensation by the governing board or institution to the group purchasing program;

(2) The supplier contracts within the group purchasing program result from a competitive process and represent the most competitive supplier bids or proposals, considering price, quality, and service, for the goods or services to be purchased;

(3) The group purchasing program certifies to the governing board that it uses effective competitive procedures to obtain quotations or contracts for goods or services to be purchased by institutions of higher education, so as to obtain the most competitive bid or proposal available to the group purchasing program for the goods or services made available for purchase and such procedures and prices resulting therefrom are capable of being audited by the institutions;

(4) The officials responsible for administering the purchasing function at the University of Tennessee or the board of regents of the state university and community college system shall provide annually a summary and evaluation report of the results of the purchases made utilizing a group purchasing program to the comptroller of the treasury and the commissioner of general services by October 1 of each year with regard to purchases made in the preceding fiscal years;

(5) The price quotation or contracts for goods or services under the group purchasing program is lower than the price available on state contracts in the Department of General Services.

(c) The provisions of this act shall be construed as authority supplemental to purchasing authority provided under any other public or private act. In the event of conflict between this act and any other public or private act, the provisions of this act shall prevail.

(d) The comptroller of the treasury is directed to report to the General Assembly on the success or failure of group purchasing programs authorized by this act by July 1, 2006, or eighteen (18) months after the implementation of a group purchasing program by institutions of higher education, whichever is earlier. The comptroller's report shall analyze the costs incurred, if any, in implementing such programs, calculate the savings, if any, attributable to such programs, and suggest any modifications that are deemed advisable to such programs.


(e) Any institutions of higher education that have entered group purchasing arrangements under Tennessee Code Annotated, Title 68, Chapter 11, Part 12, shall not be precluded from continuing such arrangements.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 15, 2003



JOHN S. WILDER
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 2nd day of June 2003



PHIL BREDEBEN, GOVERNOR